IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE SIXTEENTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

-

WRIT PETITION NO : 12310 of 2004

Between:

K.Tirupalu, S/o Venkata Naraiah
Plot No.6,4th Lane, NCC Colony,

Vengalrao Nagar, Nellore District

..... PETITIONER

AND

1 The AP. State Road Transport Corporation ,

rep. by its Managing Director, Musheerabad,
Hyderabad .
2 The Depot Manager, APSRTC,

Nellore-I Bus Depot, Nellore District

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order, direction or writ more particularly one in the nature of Writ of Mandamus declaring the action of the2nd respondent in issuing the proceedings No.E2/802(3)/2004-NLR-I, dt. 9/07/2004 is illegal, arbitrary and unjust and consequently set aside the proceedings No.E2/802(3)/2004-NLR-I dt. 9/07/2004 issued by the 2nd respondent.

Counsel for the Petitioner:MR.G.RAVI MOHAN

Counsel for the Respondents: MR.P.VENKATESWARLU (SC FOR APSRTC)

The Court at the stage of admission made the following ORDER:

Questioning the suspension order issued by the second respondent vide Proceedings No.E2/802(3)/2004-NLR-I, dated

09-07-2004 against the petitioner, the present writ petition is filed.

The petitioner was placed under suspension by the impugned proceedings for the following charges:

"You have brought an amount of Rs.4,94,270/- Garage Staff salaries for June month from Depot clerk (Earnings) on 1-7-2004. On the same day the amount was not noted in P.W.D.4 cash book and paid salaries to the staff, and payable amount on the same day was not noted in cash book. On 2-7-2004 we verified cash book, service bill and balance amount, we found Rs.49,663/- less amount than the actual amount., which constitutes misconduct Under Regulations 28(xxxii) of APSRTC Employees (conduct) Reg.1963".

"On 1-7-2004 after paying the June month salaries to the staff balance amount was not put in cash chest of the corporation and the same was put in desk of wooden table and the same was not properly locked. After completion of duties when going to home he was informed to Trimmer and DC who is paying salaries, however, he has not closed nor locked the trimmer room shutter., for the above reasons chance occurred for theft of June month staff salaries which constitutes misconduct Under Regulations 28 (ix-a) of APSRTC Employees (conduct) Reg.1963".

"The key of the cash chest was missed, and cash chest was not working properly since three years. Mr. E.D.C., has not informed to the depot manager garage supervisors security or finance supervisors. After this issue came out only after this

incident. If the same is happened not repairing of the cash chest, and for not bringing of new keys, balance amount should have been kept in Depot Office, Traffic Section which constitutes misconduct under Regulations 28(xix) of APSRTC Employees (conduct) Reg.1963".

"If salaries of garage staff were paid on 1-7-2004 itself there would have been no chance of theft, not paying the salaries, not locking and not sealing the lock in front of security men which constitutes misconduct under Regulations 28(xxxi) of APSRTC Employees (conduct) Reg.1963".

"You have not informed about the missing of original room keys to the depot officials, the room lock has not been changed at the time of leaving the depot premises, and you have used duplicate key. You should have handed over the keys to the security branch at the time of going to home which constitutes misconduct under Regulations 28 (xix) of APSRTC Employees (conduct) Reg.1963".

Therefore, he has called upon to give an explanation about missing of certain cash from the cash chest, not informing the Depot Manager or officials about missing of key of the cash chest and cash chest was not working properly since three years. As it amounts to misconduct, the petitioner was placed under suspension by the second respondent.

Learned counsel appearing for the petitioner contended that in respect of the same incident, police registered a case and charges in criminal case and departmental proceedings are one and the same and some theft has taken place, for which, the petitioner cannot be found fault and therefore, suspension order is totally unwarranted.

On the other hand, learned Standing Counsel appearing for the respondents contended that it is only suspension order pending enquiry and the second respondent is the competent authority to issue such an order and there are no grounds to interfere with the suspension order.

An amount of Rs.49,663/- found less from the cash chest on 02-07-2004. The allegation against the petitioner is that he has not informed either to the Depot Manager or Garage Supervisor about finding of less balance amount in the cash chest. It is not in dispute that in respect of the same incident, police have also

registered a case. It is settled law that the departmental proceedings cannot be stopped simply because the police registered a case in respect of the same incident. Unless it is shown that the evidence to be adduced in both the departmental proceedings and the criminal case is one and the same, the departmental proceedings cannot be stopped. At this stage, there is no material to show that the evidence to be adduced in both the proceedings is one and the same. Normally, this court will not interfere with the suspension order pending enquiry unless the authority, who issued the suspension order has no jurisdiction at all. The jurisdictional aspect in this case has not been challenged. The second respondent is the competent authority to place the petitioner under suspension. The question as to whether the petitioner has committed any misconduct or whether it is a case of theft has to be enquired into by the Enquiry Officer. Therefore, there are no grounds to interfere with the suspension order pending enquiry issued against the petitioner. The writ petition is devoid of merit and liable to be dismissed at the stage of admission.

The writ petition is accordingly dismissed. However, the respondents are directed to complete the enquiry within a period of two months from the date of receipt of a copy of this order. In the circumstances, no costs.

16th JULY, 2004.

Kvni

To

1 The Managing Director, AP. State Road Transport Corporation ,

Musheerabad, Hyderabad .
2 The Depot Manager, APSRTC,

Nellore-I Bus Depot, Nellore District

3 Two CD copies.